IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1295 OF 2005

Pramod Prabhudesai ..Petitioner

Vs.

Dilip M.Gohil & Anr. ..Respondents

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Mr.Sachin Manale i/b Suresh S.Pakale Advocate for Petitioner
Mr. P.S.Hingorani A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : JULY 12,2005

P.C.

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The applicant is seeking quashing of process issued by the learned M.M. Borivali in C.C.No.1480/S/2002. In the said case process is issued under Section 13 of Maharashtra Ownership Flats Act, 1963.

3. The petitioner had preferred an application before the learned Magistrate for recall of process. The said application came to be rejected. Being aggrieved thereby, the petitioner had preferred revision before the concerned Sessions Court. However, as the judgment in the case of **Adalat Prasad Vs. Rooplal Jindal and Ors. [2004(4) Mh.L.J.274]** came to be reported, the petitioner preferred this petition before this Court and withdrew the revision which was pending before the Sessions Court.

3. However, for the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer a

fresh revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within three weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of three weeks from today.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ petition is disposed of.

[V.K.TAHILRAMANI,J.]